presents the consumer with the necessary information so they can make an appropriate choice for their family.

The amendment also recognizes that the market should have the flexibility to offer prepayment penalties, and that the secondary market must have confidence that the mortgages they buy and sell are more secure.

Our amendment does not prohibit prepayment penalties on prime mortgages, nor does it cap the penalties at unreasonable levels. The penalties allowed by this amendment conform to industry best practices.

And I said it before, I strongly support this amendment. It is friendly to consumers and business. It would only serve to improve all mortgage transactions, which will ensure that the mortgage market has some stability.

I encourage all my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. WATT

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110–450.

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WATT:

Page 46, line 7, insert ''the greater of actual damages or'' after ''shall not exceed''.

The CHAIRMAN. Pursuant to House Resolution 825, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

The bill, as currently constructed, caps damages at the amount of three times the broker or lender fees for steering. It's crucial to increase the remedies for steering so that a limited remedy does not simply get figured into the cost of doing business. A more effective way of changing broker behavior would be to provide a remedy that provides for the greater of actual damages, or three times the broker or lender fees, because it is unlikely that we will incentivize people not to steer unless we make the penalties sufficiently onerous.

We want to eliminate the possibility that a lender will simply treat the remedy in the bill as a cost of doing business, and we believe that making the damages alternatively three times the broker's fees or actual damages will have more impact on reducing this bad kind of conduct. That's what the amendment does.

Mr. Chairman, I reserve the balance of my time.

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Mr. BACHUS. Mr. Chairman, I am opposed to the amendment and claim time in opposition.

The CHAIRMAN. The gentleman from Alabama is recognized for 5 minutes.

Mr. BACHUS. Mr. Chairman, in my opening statement I talked about the fact that we had had negotiations over the past 2 years trying to really gain a balance in this legislation between lender and borrower to ensure that credit is still available to borrowers, to ensure that there was proper incentive for lenders to make loans which did not violate this act. And I believe, in fact, we have done that. It's a careful balance. And I must say that I think the sense of proportionality in the amount of damages to be awarded that we have it right. But I believe this amendment would increase potential damages and is not warranted.

We are not trying to create a right of actions in this lawsuit. We are trying to discourage lenders from making predatory loans. And if they do make predatory loans, then our function here is for them to pay reasonable compensation and also to cure that loan or to make things right. And I believe that the underlying bill, not this amendment, strikes the right balance between consumers and originators.

I also believe that this amendment might unknowingly remove the incentive for an originator to originate a loan. As some of my colleagues on this side have cautioned, they believe the bill already does that. And I believe this would just be additional evidence to those who are already opposed to the bill that we have the right set of incentives and rights and liabilities under the bill.

At this time I would like to yield 1 minute to the gentleman from Colorado (Mr. PERLMUTTER).

Mr. PERLMUTTER. Mr. Chairman, I support this bill, and I appreciate the work that my friend Mr. WATT has performed. But with respect to this amendment, I have to oppose this amendment.

One of the things that Mrs. BIGGERT talked about was five principles that she saw in this bill. There is also a sixth principle of real estate and financing, and that is certainty. And what I fear is by making this the greater of actual damages or triple damages, triple being the amount of money that the mortgage originator made, at least he can figure out what that is. Actual damages really does just set the prelude for a lawsuit or a major controversy.

So I support this bill. I don't support the amendment. And I am going to urge a ''no'' vote on the amendment.

Mr. BACHUS. Mr. Chairman, at this time I would like to yield such time as he may consume to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding.

Mr. Chairman, I continue to be concerned about the increased liability exposure that is being introduced into the market creating even greater uncertainty at a time that many of us believe that we need even more liquidity in the market as we're looking at facing all of these subprime adjustable resets.

So, again, I find it somewhat odd that when we look at the Federal Reserve that appears to be pushing on the accelerator, this committee wants to push further on the brake.

And anytime you add increased liability upon a standard that many of us believe to be highly subjective, dealing with such terms as ''appropriate,'' ''net tangible benefit,'' ''predatory characteristics,'' you are going to chase more people out of the marketplace. Fewer people are going to want to originate these mortgages. You are deciding de facto with this amendment that there is some portion of Americans who are going to be denied their homeownership opportunities. Now, I can't tell you what their names are. I don't know exactly who they are. But there are just millions and millions of Americans who are just barely going to qualify to be able to get into their own home or keep their own home. And I hear from them every single day.

I've heard from the Kirkland family in Athens, Texas, in the Fifth Congressional District that I have the honor of representing. They wrote to me: ''Dear Congressman, I think Congress should not ban subprime loans. I think it lets people buy a home, improve their life, and own a piece of the dream.''

Now, this bill doesn't outlaw all subprime loans. The amendment doesn't outlaw all subprime loans. But there is a universe of subprime loans that de facto are going to be outlawed by the increased liability exposure in this amendment, and people like the Kirkland family will no longer own their home, and that is wrong.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Mr. Chairman, I have said before that the remedies under this bill are very modest. They are so modest, in fact, that a great many consumers who have actually been harmed, who have clearly been wronged, who have clearly entered into a mortgage that violated the law are not going to have much they can do about it.

The other side calls this bill a trial lawyer bonanza, Mr. Chairman. Not many people are going to even find a lawyer who can bring a claim like this.

This takes very modest remedies and improves them only slightly. It's not going to provide for punitive damages or pain and suffering. It's just their out-of-pocket loss if they entered into a mortgage that violated the law. Again, the remedies are very modest. This makes them only slightly less modest.

Mr. WATT. Mr. Chairman, I yield myself the balance of my time.

I have listened to and acknowledged the concerns that are raised by the